



Frequently Asked Questions: City of Seattle Paid Sick/Safe Leave Ordinance

On September 23, 2011, the City of Seattle passed an ordinance mandating all employers operating within Seattle city limits to provide paid sick/safe leave to their employees. Seattle now joins San Francisco, California and Washington D.C. in requiring employers to offer this benefit to employees.

The Seattle Office for Civil Rights (SOCR) is responsible for administering and enforcing this ordinance, which takes effect on September 1, 2012. SOCR also will provide technical assistance to employers and employees.

This Frequently Asked Questions (FAQ) sheet addresses some of the most common questions about the ordinance. Do you have a question that isn't covered by this FAQ? Contact Elliott Bronstein at 206-684-4507 or elliott.bronstein@seattle.gov.

A. General information

1. What does the ordinance do?

[Ordinance Number 123698](#) adds a new chapter (14.16) to the Seattle Municipal Code (SMC). The new chapter establishes minimum standards for businesses operating within Seattle City limits to provide paid sick/safe leave to their employees. The ordinance also prescribes penalties, remedies and enforcement procedures.

2. When does the Paid Sick/Safe Leave Ordinance take effect?

The ordinance takes effect on September 1, 2012.

3. Which City department is responsible for administering and enforcing this ordinance?

The Seattle Office for Civil Rights (SOCR) is responsible for administering and enforcing the ordinance. SOCR also is available to provide technical assistance to employers and employees. For more information, please call 206-684-4507, e-mail elliott.bronstein@seattle.gov, or [fill out a Customer Feedback form](#).

4. What is the difference between sick leave and safe leave?

An employee can use **sick leave** for the following reasons:

- An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.
- An employee providing care for a family member with an illness, injury or medical appointment, etc.

An employee can use **safe leave** for the following reasons:

- An employee's place of business has been closed by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material.
- An employee needs to care for a child whose school or place of care has been closed by order of a public health official to limit exposure to an infectious agent, biological toxin or hazardous material.
- For reasons related to domestic violence, sexual assault or stalking that affect the employee or the employee's family member.

B. Coverage and scope of the ordinance

1. Which employees are covered by the paid sick/safe leave ordinance?

Employees are covered if they perform full-time, part-time or temporary work within Seattle city limits. Employees who occasionally work in Seattle are covered if they perform more than 240 hours of work in Seattle within a calendar year.

Example: Nicole works as a bartender for a restaurant in Seattle for 30 hours per week. She is a covered employee because she performs part-time work in Seattle.

2. Does coverage include all government employees who work in Seattle?

No. The only government employees covered by the ordinance are employees of the City of Seattle. Federal, state and other local government employees are not covered.

Example: Kim works for the Seattle Department of Transportation. She is covered by the ordinance because she is a City of Seattle employee.

Example: Scott works for the University of Washington at the Seattle campus. He is not covered by the ordinance because he is a state employee working for a state institution.

Example: Lars works as a Metro bus driver in the Seattle area. He is not covered by the ordinance because he is a King County employee.

3. Does coverage include work study participants who work in Seattle?

No. Participants in work study programs are not covered. More information about the classification of work study participants is available at the [US Department of Education Web site](#).

4. Does coverage include employees who are based outside of Seattle, but occasionally work in Seattle?

Yes. Employees are covered if they perform work in Seattle for more than 240 hours within a calendar year and the employer has five or more employees. The paid sick/safe leave must be used in Seattle.

Example: Carla works for an employer that operates stores in Renton and Seattle. Carla primarily works for the Renton store, but she also works some shifts in Seattle. The hours that Carla works in the Seattle store count toward her accrual of paid sick/safe leave. Carla's employer is only required to permit use of paid sick/safe leave for the work she performs in Seattle, not Renton.

Example: Maria works as a manager for a store in Spokane. She temporarily transfers to Seattle for a period of four months to manage the opening of a new store and then returns to Seattle only on an intermittent basis to oversee the store. Only the hours that Maria works in Seattle count toward accrual of paid sick/safe leave. In addition, Maria's employer is only required to permit Maria's use of paid sick/safe leave while she is working in Seattle, not Spokane.

Example: Jamal works for a company based in New York. He lives in New York, but frequently travels to Seattle to lead training seminars. The hours that Jamal works in Seattle count toward accrual of paid sick/safe leave. Jamal's employer must provide paid sick/safe leave to Jamal if he accrues more than 240 hours of work in Seattle within a calendar year. The hours that Jamal works in New York do not count toward the minimum number of hours to qualify for paid sick/safe leave in Seattle.

5. Does coverage include independent contractors?

No. The ordinance only applies to employees. However, the designation of an individual as an independent contractor or as an employee depends on a variety of factors. The Washington State Department of Labor and Industry [provides more information about classifying independent contractors](#).

6. Does coverage include undocumented employees?

Yes. All employees who perform work in Seattle are covered, including employees who are not legally authorized to work in the United States. SOCR does not ask people who file complaints about their immigration status; SOCR investigates complaints without regard to immigration status.

7. Can employees waive their rights to the protections of this ordinance?

Employees can only waive their rights as part of a bona fide collective bargaining agreement. Individual waivers of rights are not allowed.

8. Which employers are covered by the paid sick/safe leave ordinance?

All employers are covered by some aspects of the ordinance (such as the anti-retaliation provision of the law). However, only employers with 5 or more "full-time equivalent employees" (FTEs), are required to provide paid sick/safe leave to covered employees. An employer's specific obligations depend on the number of full-time equivalent employees:

Tier One – Employers with more than 4 and fewer than 50 FTEs on average per calendar week during the previous calendar year.

Tier Two – Employers with at least 50 and fewer than 250 FTEs on average per calendar week during the previous calendar year.

Tier Three – Employers with 250 or more FTEs on average per calendar week during the previous calendar year.

Note: Tier size is determined by the employer's number of FTEs, not the number of individual employees.

9. What does the ordinance mean by "full time equivalent" (FTE)?

"Full time equivalent" (FTE) refers to the number of hours worked for compensation that

add up to one full-time employee, based either on a 40-hour work week or on how an employer defines “full-time” in writing or practice.

10. How do employers determine the number of FTEs?

To determine the number of FTEs, employers should count all compensated hours of all employees from the previous calendar year. All employees are counted for FTE determination, including:

- Full-time employees.
- Part-time employees.
- Temporary employees.
- Employees who are made available by a temporary service, staffing agency or similar entity.
- Employees who work outside of Seattle.

11. How do new employers determine the number of FTEs?

Employers that did not have any employees during the previous calendar year can determine their tier size by calculating the average number of FTEs paid per calendar week during the first 90 days of the current year of business.

12. If an employer has both Seattle and out-of-state employees, does the employer need to count all employees to determine tier size?

Yes. To determine the number of FTEs for tier size, employers must count the compensated hours of **all** employees (full-time, part-time, and/or temporary) who perform work in Seattle or outside the city.

Example: NW Food Company is headquartered in Oregon and has locations in Portland, Seattle, and Boise. To determine tier size, NW Food Company must count the compensated hours of its employees in all three locations.

13. Does this ordinance apply to employers based outside of Seattle that send employees to work in Seattle?

Yes, the ordinance applies if the employees are performing work in Seattle. Only the hours worked in Seattle will count toward accrual of paid sick/safe leave.

Example: All-Star Uniforms is an employer based in Tukwila. All-Star Uniforms sends sales representatives to Seattle to market merchandise to local businesses and deliver uniforms. While the sales representatives are performing work in Seattle, they are accruing hours that will count toward their qualification for paid sick/safe leave. If the sales representatives qualify for paid sick/safe leave, All-Star Uniforms is only required to permit use of the paid leave for work scheduled in Seattle.

14. Do employers with branches outside of Seattle need to provide health insurance for those employees who work outside of Seattle?

No. The ordinance does not require employers to provide health insurance for any employee – whether the employee works in Seattle or outside the city. The purpose of the ordinance is to provide employees with paid sick/safe leave.

15. If an employer does not provide other benefits to employees, does the employer still have to comply with the paid sick/safe leave ordinance?

Yes. Employees are covered by the ordinance even if an employer does not provide other benefits to employees.

16. Can employers offer more generous policies for paid sick/safe leave?

Yes. The ordinance sets the minimum requirements for a paid sick/safe leave policy; it does not prevent employers from establishing more generous policies.

C. Accruing paid sick/safe leave

1. When do employees begin to accrue paid sick/safe leave?

Current employees will begin to accrue paid sick/safe leave on September 1, 2012, which is the date the ordinance takes effect. Accrual rates will not apply to hours worked before that date. **New employees** hired on or after September 1, 2012 will begin to accrue paid sick/safe leave from the start-date of employment.

2. How much paid sick/safe leave do employees accrue?

Employees accrue paid sick/safe leave based on their employer's tier size:

- **Tier One and Two:** Employees accrue at least one hour of paid leave for every 40 hours worked.
- **Tier Three:** Employees accrue at least one hour of paid leave for every 30 hours worked.

3. When can employees start using paid sick/safe leave?

Employees of **current employers** can use accrued paid sick/safe leave on the 180th calendar day after they begin employment. Employees of **new employers** (Tier One and Tier Two) can use accrued paid sick/safe leave as described above, but only after 24 months from the hire date of the first employee.

Example: Solomon started working for an employer in 2009. The employer hired its first employee in 1999. Solomon can begin to use his accrued paid sick/safe leave after he works 40 hours after the date that the ordinance takes effect, September 1, 2012.

Example: Enrique started working for an employer on December 1, 2011. The employer hired its first employee on November 1, 2011. Enrique can begin to use his accrued paid sick/safe leave on November 1, 2013 – 24 months after the employer's hire date of its first employee.

4. Do employees accrue sick leave and safe leave separately, or is it one amount of time that employees can use either way?

Employees accrue paid leave in one amount and can choose to use it either for sick leave or safe leave.

5. What about seasonal employees?

If an employee is laid off and rehired by the same employer within seven months of separation, the previous period of employment will be counted toward the employee's eligibility to use accrued paid sick/safe leave. The total time of employment must have occurred within two calendar years.

Example: During his summers off from school, Aziz works in a restaurant from May through September. Aziz will retain his previously accrued hours of paid sick/safe leave (and will accrue more hours as he continues to work) as long as the period between Aziz's departure and return to work is no longer than 7 months.

Example: Caprice works full-time and accrues 20 hours of paid sick/safe leave. She then leaves her job to pursue a master's degree. Six months later she is rehired by the same company and begins to work on a part-time basis. When Caprice returns to work, she retains the 20 hours that she previously accrued and will accrue more hours as she continues to work.

6. How much paid sick/safe leave can an employee use in a calendar year?

The number of hours of paid sick/safe leave that an employee can use in a calendar year depends on the employer's tier size:

Tier One – Employees can use 40 hours or less per calendar year.

Tier Two – Employees can use 56 hours or less per calendar year.

Tier Three – Employees can use 72 hours or less per calendar year.

7. Can employees carry over unused paid sick/safe leave to the next calendar year?

Yes. Employees are permitted to carry over unused hours to the next calendar year. However, the number of hours depends on the employer's tier size:

Tier One – Employees can carry over 40 hours or less.

Tier Two – Employees can carry over 56 hours or less.

Tier Three – Employees can carry over 72 hours or less.

8. What about employees who are exempt from overtime under the Fair Labor Standards Act (FLSA)?

Exempt employees do not accrue paid sick/safe leave for hours worked beyond a 40-hour work week. If an exempt employee's normal work week is less than 40 hours, paid sick/safe leave accrues based on the employee's normal work week. If an exempt employee's normal work week is 40 hours or more, paid sick/safe leave accrues based on a 40-hour work week.

9. What about employers who offer universal paid time off (PTO) for employees?

Employers do not need to provide additional paid sick/safe time to employees if they provide a PTO policy that combines sick and vacation leave. However, the PTO policy must permit accrual and the use of paid sick/safe leave for the same purposes and under the same conditions as Seattle's ordinance. In addition, Tier Three employers must permit employees to use up to 108 hours of paid leave within a calendar year and/or carry over up to 108 hours of unused paid leave to the next calendar year.

D. Using paid sick/safe leave

1. What are acceptable reasons for using paid sick leave?

An employee can use paid sick leave for the following reasons:

- An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.
- An employee providing care for a family member with an illness, injury or medical appointment, etc.

Note: For paid sick time, "family member" is defined by the Washington Family Care Act as a child, grandparent, parent, parent-in-law, spouse and registered domestic partner. See RCW 49.12.265 and 49.12.903 for more information.

2. What are acceptable reasons for using paid safe leave?

An employee can use paid safe leave for the following reasons:

- An employee's place of business has been closed by order of a public official to limit exposure to an infectious agent, biological toxin or hazardous material.
- An employee needs to care for a child whose school or place of care has been closed by order of a public health official to limit exposure to an infectious agent, biological toxin or hazardous material.
- For reasons related to domestic violence, sexual assault or stalking that affect the employee or the employee's family member.

Note: For paid safe leave, "family member" is defined as a child, spouse, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship. See RCW 49.76.020 for more information.

3. Under an employer's PTO policy, can employees use all of their accrued leave for vacation and not leave any "cushion" for paid sick/safe leave?

Yes. Under an employer's PTO policy, employees can choose to use their paid leave as vacation, sick or safe leave.

4. Can an employee trade shifts or work additional hours instead of using paid sick/safe leave?

Yes. With mutual employer and employee consent, employees may work additional hours or shifts during the same or next pay period instead of using paid sick/safe leave. For eating and/or drinking establishments, employers may offer substitute hours/shifts to employees who request paid sick/safe leave. If an employee chooses to work substitute hours/shifts, the employer may deduct paid sick/safe leave in accordance with ordinance requirements.

Example: Serena works for an office supply company in the stocking department. When Serena becomes sick with the flu, she may stay home and use paid sick leave for the hours she misses from work. She also may work additional hours and/or swap shifts with another employee to cover the missed hours from work instead of using paid sick leave.

Example: Bindu works for a restaurant as a server. When Bindu becomes sick with the flu just before her 6:00 pm to 10:00 pm shift, she may stay home and use paid sick leave for the four hours she misses from work. With mutual consent between Bindu and her employer, she also may stay home and then make-up the missed hours from work in a substitute shift during the same or next pay period. For example, Bindu could work the following

Wednesday in a substitute shift from 6:00 pm to 10:00 pm. To pay for her work in this substitute shift, Bindu's employer may use four hours of her accrued paid sick leave.

5. Is an employee required to use paid sick/safe leave in hour-long increments?

For employees covered by FLSA overtime requirements, employers can require the use of paid sick/safe leave in hourly increments. However, an employer may choose to permit use of paid sick/safe leave in less than one hour increments if preferable.

For FLSA exempt employees, employers may make deductions of paid sick/safe leave in accordance with the FLSA. FLSA-exempt public employees must use paid sick /safe leave in accordance with a pay system established by statute, ordinance or regulation, or by a policy or practice established under principles of public accountability.

6. What pay does an employee earn during use of paid sick/safe leave?

Employers must pay employees for sick/safe leave at the same hourly rate and with the same benefits, (including health care benefits) as during regular work hours.

7. Are employees entitled to tips that would have been earned?

Employees are not entitled to lost tips or commissions during use of paid sick/safe leave.

8. Are employees compensated for unused paid sick/safe leave when they leave their job?

No. An employer is not required to pay for unused paid sick/safe leave upon an employee's termination, resignation, retirement or other separation from employment.

9. How does an employee request use of paid sick/safe leave?

The method for requesting paid sick/safe leave depends on the employer's policies. Employees may be required to comply with the employer's notice policy for absences and/or leave requests, provided that those policies do not interfere with the purpose of the leave.

- For leave that is foreseeable, a written request should be provided at least 10 days ahead of time (or as early as possible), unless the employer's customary notice policy requires less advance notice.
- For unforeseeable leave, the employee must provide notice as soon as is practicable and must generally comply with an employer's customary notice policies and/or call-in procedures.

10. Does an employee have to provide documentation for use of paid sick leave?

An employee does not need to provide documentation for use of paid sick leave unless the employee is absent for more than three consecutive days. After three consecutive days, an employer may require documentation, such as a statement signed by a health care provider stating that sick leave is necessary. An employer cannot require the documentation to reveal the nature of the illness or other private medical information.

11. Who pays for documenting use of paid sick leave after more than three consecutive days?

If the employee's health insurance does not cover this service, the employer and the employee should each pay 50% of the cost of documentation. Expenses are limited to the cost of:

- Services provided by health care professionals.
- Services of health care facilities.
- Testing prescribed by health care professionals.
- Transportation to the location where such services are provided.

If an employee has declined health insurance from an employer, the employee is not entitled to reimbursement for expenses.

12. Does an employee have to provide documentation for use of paid safe leave?,

An employee does not need to provide documentation for use of paid safe leave unless s/he is absent for more than three consecutive days. After three consecutive days, an employer may require documentation.

- For documentation of the closure of a school or place of care, an employee can provide notice of the closure in whatever format the employee received it.
- For verification of leave taken for domestic violence, sexual assault or stalking, an employee may provide a police report; applicable evidence from the court or the prosecuting attorney; documentation from an advocate, attorney, member of the clergy, medical or other professional; or the employee's written statement.

Note: The verification provision for domestic violence, sexual assault or stalking does not waive confidentiality requirements.

13. How can employees learn how many hours of paid sick/safe leave they have accrued?

Employers shall provide employees the amount of their available paid sick/safe leave each time that wages are paid. Employers may choose a reasonable system for providing this information, such as a statement with available paid sick/safe leave on each pay stub or an online system where employees can access their own paid leave information.

14. What happens if an employer retaliates against an employee for use of paid sick/safe leave?

Retaliation is illegal. Employers are prohibited from taking an adverse action or discriminating against an employee for exercising in good faith her/his rights under this ordinance. These rights include (but are not limited to):

- Using paid sick/safe leave.
- Informing an employer, union or legal counsel about alleged violations of this ordinance.
- Filing a complaint about alleged violations of this ordinance.
- Participating in an investigation of alleged violations of this ordinance.
- Informing other employees of their rights under this ordinance.

E. Employers' notice and record-keeping requirements

1. What are employers' notice requirements to employees?

Employers are required to provide employees with notice of their rights under this ordinance, including employee rights regarding retaliation and the right to file a complaint or bring a civil action if paid sick/safe leave is denied by the employer.

Employers may comply with the notice requirements of this ordinance by:

- Including a paper or electronic copy of notice in employee handbooks or other written guidance.
- Distributing a notice to each new employee at the time of hire.
- Displaying a poster created by SOCR in a conspicuous and accessible place in the workplace. SOCR will make a poster available prior to the effective date of the ordinance.

2. What are employers' record keeping requirements?

Employers are not required to change their record-keeping policies, as long as those records reasonably indicate:

- Hours worked by employees.
- Accrued paid sick/safe leave.
- Paid sick/safe leave taken by employees.

Employers are required to allow SOCR access to these records in order to investigate potential violations and to monitor compliance with the requirements of the ordinance.

F. Enforcement

1. Which agency enforces this ordinance?

SOCR is responsible for enforcing this ordinance. SOCR conducts fair and impartial investigations. SOCR does not provide legal representation for employees or employers. Enforcement includes:

- Filing charges of alleged violation.
- Conducting investigations.
- Facilitating settlements and conciliations.
- Issuing written findings of fact and determinations.

2. How does an employee file a complaint regarding violations of this ordinance?

To report alleged violations of the paid sick/safe leave ordinance, an employee may telephone SOCR at 206-684-4500 or fill out an online Intake Questionnaire.

3. What is the timeline for filing a complaint?

Complaints must be filed within 180 days of the alleged violation of this ordinance.

4. Can an employee file a complaint in a court of law?

Yes. Employees may pursue civil action for alleged violations of this ordinance.